

UNITED STATES DISTRICT COURT EASTERN
DISTRICT OF NEW YORK

-----X
UNITED STATES OF AMERICA,

Cr. No. 13-607 (JFB)

- against -

NOTICE OF MOTION

PHILLIP KENNER and
TOMMY CONSTANTINE, also known
as "Tommy C. Hormovitis"

Defendants
-----X

PLEASE TAKE NOTICE that upon the declarations of Andrew Oliveras, Esq., the affidavit of Tommy, sworn to on January 29, 2015, together with the exhibits annexed hereto, along with the accompanying memorandum of law, the undersigned moves this Court for an Order:

1. To dismiss the Indictment in its entirety for Government misconduct or in the alternative, for an evidentiary hearing;
2. To dismiss Count Four of the Indictment for lack of venue;
3. To sever my trial from codefendant Phillip Kenner; and
4. To suppress an audio recording of a conversation between the defendants, or in the alternative, for a hearing on its authenticity and the production of the original recording on its original storage device for inspection and forensic examination.
5. Granting leave of the defendant to join in all relevant motions made by his co-defendant not inconsistent with the relief requested herein.

Dated: Mineola, New York
January 29, 2015

A handwritten signature in black ink, appearing to read "Robert P. LaRusso", written over a horizontal line.

Robert P. LaRusso
LaRusso & Conway, LLP
*Attorney for Defendant, Tommy
Constantine*
300 Old Country Road,
Suite 341
Mineola, New York 11501
(516) 248-3520

TO: Clerk of the Court (via ECF)
AUSA James M. Miskiewicz (via ECF)
AUSA Saritha Komatireddy (via ECF)
Richard Haley, Esq. via ECF